Contingent remainders in England were made alienable by 8 & 9 Vict. c 106 (1845) the provision being a sweeping one. It is provided that "a contingent, an executory and a future interest, and a possibility coupled with an interest * * * whether the object of the gift or limitation of such interest or possibility be or be not ascertained * * * may be disposed of by deed." In this country statutory provisions to the same effect though generally not so explicit are common. See STIMSON, AM. ST. LAW, §1420. In Michigan the provision, essentially the same as in New York, provides that "Expectant estates are descendible, devisable and alienable, in the same manner as estates in possession." HOWELL'S STATS. (2nd ed.) 10657. The remarkable thing about the principal case is that in Iowa it has been settled that the statute providing that "Every conveyance of real estate passes all the interest of the grantor therein, unless a contrary intent can be reasonably inferred from the terms used," enables a contingent remainderman to make effective conveyances of the remainder. This was settled in *McDonald* v. *Bank,* 123 Iowa 413, in which the remainders in question were contingent in the same way as in the principal case. The *McDonald* case was cited by the court at the outset, with the statement that "The mortgages, then, were valid when executed," which statement of course is in keeping with the observation, referred to above, that the discharge in bankruptcy did not displace the pre-existing liens created by the mortgages. Without realizing that they had thus decided the case in the first two sentences stating the law applicable to the facts, the court went on to a consideration of the matter of inurement of after acquired title apparently being led astray by several earlier Iowa cases, which are cited, in which the question of inurement by estoppel was vitally important for the reason that the conveyances or mortgages were made at a time when the grantor or mortgagor had no interest in the premises, not even a contingent remainder.

It is held where contingent remainders are alienable that a mortgage thereof may be foreclosed even before the contingency is determined. *Peoples' Loan and Exchange Bank* v. *Garlington,* 54 S. C. 413. And this would seem entirely proper. R. W. A.

WITNESS—COMPETENCY OF AN ALLOPATHIC EXPERT IN THE FIELD OF HOMOEOPATHY—OPINION ON VERY FACT THE JURY MUST DETERMINE. *Van Sickle* v. *Doolittle,* (Ia., 1918), 169 N. W. 141, was an action for malpractice against a physician of the homœopathic school of medicine. Upon the trial, a physician of the allopathic school was called, and after testifying that he was unskilled in the science of homœopathy, was allowed to testify that the treatment shown to have been given to the patient by defendant, would produce no physiological effect, and that proper treatment required the giving of such medicines as would produce such effect. This was held error upon the ground that the defendant was called to treat the patient as a homœopathic physician and that his only obligation was to exercise such care and skill as was common to practitioners of that school of medicine, and the witness having been shown to be unskilled in the science of medicine as practiced by that school, was not qualified to speak as expert in the field in-

volved. This would seem to be the only ruling which would avoid a fruitless controversy in the court room between two schools of medicine whose apostles would hesitate to agree on so simple a proposition as that the normal man has one and not two livers.

It doubtless is one answer to such an action that the patient got what he asked for, if he got treatment according to the standards of the school to which the practitioner called belonged, and cannot complain that the result was not what he had hoped, and the court seems to have adopted this view.

But suppose the patient at the time of the treatment is *non compos mentis* and cannot make the request for treatment; that the physician, discovering his condition, gives the treatment out of a spirit of humanitarianism only, and the patient recovering, brings his action to recover for claimed malpractice. Would he be entitled to recover, if he could satisfy a jury that the care and skill exercised was not that common among practitioners of medicine in that community? Would it be enough to defeat such action that he did exercise that measure common to practitioners in his particular school, that of homœopathy? Does the liability depend at all upon the fact that in the one case the patient engaged for homœopathic treatment and got it, and in the other did not, and got it? Unless the physician is to be penalized for acting on his humanitarian impulses it would seem reasonable to conclude that if the physician used the care and skill common to practitioners of a school which the law recognizes and licenses, he should be held harmless. The record does not indicate that the Good Samaritan's nostrum was diluted quite to the extent of that shown to have been used in this case, but he seems not only, not to have been condemned for his act, but to have been considered worthy of imperishable memory.

One paragraph of the opinion reiterates the fallacious doctrine that an expert witness cannot express an opinion upon the very question which the jury must determine by its verdict. Why not? That the only question a jury has to determine in a particular case is whether fact X exists has never been thought to be a good objection to the testimony of A, who has had opportunity to personally observe whether it does exist, that it does or does not exist. His testimony is received because it has a tendency to assist the jury to a correct determination of the question at issue, that of the existence of fact X.

For precisely the same reason should we say, that if the jury after having heard the testimony as to what were the circumstances accompanying the death of A and finding what they were, is unable to tell what these conditions mean, it is proper to call one who is able to say that they mean that A died of typhoid fever, or that he died of arsenical poisoning, as the case may be? As in the previous case the testimony is taken because it furnishes just the information the jury lacks. *Fenwick* v. *Bell,* 1 C. & K. 312; *Poole* v. *Dean,* 152 Mass. 589; *Snow* v. *R. Co.,* 65 Me. 231; *Littlejohn* v. *Shaw,* 159 N. Y. 188; *Western Coal & M. Co.,* v. *Berberich,* 36 C. C. A. 364. V. H. L.